

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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| Appellant: <b>KIRBAS, et al.</b>   | Group Art Unit: <b>2617</b>              |
| App. No.: <b>09/849,715</b>  | Examiner: <b>DANIEL, Jr., Willie, J.</b> |
| Filed: <b>May 4, 2001</b>  | Conf.: <b>9648</b>                       |
| Title: <b>SYSTEM AND METHOD FOR<br/>RESTRICTING WIRELESS<br/>COMMUNICATION</b> |  |

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Dear Sir:

**APPELLANTS' REPLY BRIEF UNDER 37 CFR 41.41**

In response to the Examiner's Answer mailed September 22, 2010, in the above-identified U.S. Patent Application, Appellants hereby present the Appellants' Reply Brief under 37 CFR §41.41.

## **ARGUMENT**

As presented in Appellants' Appeal Brief, Appellants respectfully submit that the cited portions of the cited references, taken alone or in combination, do not teach or suggest all of the limitations of any of the claims. Appellants' Appeal Brief sets forth the reasoning for Appellants' position and, in the interest of brevity, Appellants limit this Reply Brief to addressing new arguments raised in the Examiner's Answer.

### **SCHMIDT IN VIEW OF RODRIGUEZ AND IRVIN FAILS TO TEACH OR SUGGEST A READ ONLY MEMORY FOR STORING ONE OR MORE AUTHORIZED GEOGRAPHIC AREAS, WHEREIN EACH AUTHORIZED GEOGRAPHIC AREA COMPRISES ABSOLUTE OR RELATIVE POSITION INFORMATION**

In response to Appellants' argument regarding claims 46 and 63 that the cited portions of Schmidt, Rodriguez, and Irvin do not teach or suggest "a read only memory for storing one or more authorized geographic areas, where each authorized geographic area comprises absolute or relative position information," the Examiner states that "the appealed claim language does not preclude a user from programming a memory of the device. In addition, the appealed claim language basically describes a *read only memory for storing a list*, but does not articulate who, how, or when the read only memory has information (e.g., area codes) stored." The Examiner further states that "one of ordinary skill in the art would clearly recognize a *non-volatile memory* surviving power-up and power-down must be a *read only memory*." (See Examiner's Answer, page 31; Emphasis in original). In this regard, the Examiner continues to attempt to characterize: (1) memory 58 of Schmidt as a read only memory, and (2) the home system ID number of Schmidt as an authorized geographic area comprising absolute or relative position information. For additional support, the Examiner attempts to characterize the "safe zones" of Irvin as authorized geographic areas, each comprising absolute or relative position information. (See Examiner's Answer, pages 35-39).

In response, Appellants respectfully submit that the combination of Schmidt, Rodriguez, and Irvin suggested by the Examiner does not teach or suggest "a read only

memory for storing one or more authorized geographic areas, where each authorized geographic area comprises absolute or relative position information.” For example, the Examiner’s proposed combination of the cited references would yield a portable communication unit including a PROM (e.g., a Programmable Read-Only Memory), in which a “Home” carrier station identification number (Rodriguez) or a “home system ID number” (Schmidt) is stored. In addition, the Examiner has suggested that the user-programmable safe zones of Irvin would somehow be combined with the teachings of Schmidt and Rodriguez. Appellants submit that such a combination does not teach or suggest “a read only memory for storing one or more authorized geographic areas, where each authorized geographic area comprises absolute or relative position information” for at least two reasons.

A. System ID Numbers Do Not Teach or Suggest Authorized Geographic Areas Comprising Absolute or Relative Position Information

In response to the Examiner’s suggested combination of references, Appellants submit that neither the “home system ID number” of Schmidt nor the “Home carrier station identification number” of Rodriguez can be reasonably interpreted as teaching or suggesting an authorized geographic area comprising absolute or relative position information. Appellants submit that the language of claims 46 and 63 clearly indicates that the “authorized geographic area,” itself, comprises absolute or relative position information. Appellants submit that the Examiner has not demonstrated where the cited portions of Schmidt and Rodriguez teach or suggest that the “home system ID number” of Schmidt or the “Home carrier station identification number” of Rodriguez, in and of themselves, contain any position information.

Rather, Appellants submit that the home system ID numbers of Schmidt and Rodriguez appear to be arbitrary numeric identifiers assigned to a particular system and that these numeric identifiers do not contain any position information. In this regard, Appellants submit that the cited system ID numbers are not unlike a parcel identification number for a given piece of real property. Namely, the parcel ID number is merely an arbitrarily assigned identifier which, in and of itself, does not contain any position

information. In order to find the real property associated with a particular parcel ID number, a special map (e.g., or some other additional, separate item besides the parcel ID number) is required to find a location that may be associated with the parcel ID number. Likewise, Appellants submit that an additional, separate item or piece of data would be required to locate the “home system” of Schmidt or “Home carrier station” of Rodriguez since the cited portions of the cited references do not teach or suggest that the ID numbers of Schmidt and Rodriguez contain any location information.

Thus, the cited portions of Schmidt and Rodriguez do not teach or suggest storing one or more authorized geographic areas in read only memory where each authorized geographic area comprises absolute or relative position information.

B. User-Programmable Safe Zones of Irvin are Not Properly Combinable with a Read Only Memory

Appellants first note that, according to MPEP 2111.01, Section III., the ordinary and customary meaning given to a term by those of ordinary skill in the art should be applied. In this regard, Appellants respectfully refer the Board to [www.wikipedia.org](http://www.wikipedia.org), which describes that modern types of read-only memory (“ROM”) “can be erased and re-programmed multiple times; they are still described as ‘read-only memory’ (ROM) because the reprogramming process is generally infrequent, comparatively slow, and often does not permit random access writes to individual memory locations.” (Emphasis added). Similarly, [www.dictionary.com](http://www.dictionary.com) defines ROM as “computer memory in which program instructions, operating procedures, or other data are permanently stored, generally on electronic chips during manufacture, and that ordinarily cannot be changed by the user.” (Emphasis added).

Appellants submit that these generally accepted meanings of ROM should be applied when interpreting Appellants’ claims. Namely, the ROM of the recited wireless communication device, in which the authorized geographic areas are stored, should not permit a user to perform random access writes to individual memory locations in the ROM. Appellants submit that this understanding of the inherent properties of ROM is in line with the ordinary and customary meaning given to the term “ROM” by those of

ordinary skill in the art. This understanding is further supported by the preamble of Appellants' claim 63, which clearly states "a method for restricting a requested communication on a wireless communication device." (Emphasis added). If a user were able to easily modify individual memory locations of the recited ROM, it would defeat the stated purpose of "restricting."

Given this understanding of the term "ROM," Appellants submit that the cited portions of Irvin are not properly combinable with a PROM used to store the home system ID numbers of Schmidt and Rodriguez, as argued by the Examiner. For example, the Examiner suggests that the "safe zones" of Irvin are equivalent to the "authorized geographic areas" that may be stored in the "ROM" recited in Appellants' claims 46 and 63 since the safe zones may be defined by geocoordinates from a GPS receiver.

In response, Appellants first note that position memory 170 of Irvin is programmable in that a user may input safe zone locations, shapes, and sizes into position memory 170. (See Irvin, col. 6, lines 1-18). Further evidence that position memory 170 is user-programmable can be seen from the fact that col. 4, lines 37-39 of Irvin describes how position memory 170 could be a separate RAM memory, which is not equivalent to Appellants' recited "ROM." Moreover, the cited portions of Irvin are silent regarding the type of memory that comprises the other memory of Irvin (e.g., memory 150). From the fact that position memory 170, which is necessarily programmable, can be embodied as an address space in memory 150, Appellants submit that memory 150 is also programmable and does not teach or suggest a read only memory. (See Irvin, col. 4, lines 35-37).

Thus, the cited portions of Irvin do not teach or suggest storing authorized geographic areas in read only memory. Rather, the cited portions of Irvin describe user-programmable safe zones that are stored in an area in which a user can perform random access writes to individual memory locations. Necessarily, the memory used to store the safe zones of Irvin must not be a ROM, as recited in Appellants' claims.

Turning back to the combination of Schmidt, Rodriguez, and Irvin suggested by the Examiner, Appellants submit that the user-programmable safe zones of Irvin are not properly combinable with the PROM of Schmidt and Rodriguez since the combination

would render Schmidt and Rodriguez unsatisfactory for their intended purpose. (See MPEP § 2143.01, Section V.). For example, a PROM (Schmidt, Rodriguez) is not compatible with permitting a user to perform random access writes to individual locations of the PROM in order to create, store, or modify safe zones (Irvin) within the PROM. Similarly, replacing the PROM of Schmidt and Rodriguez with a memory from Irvin would undermine the integrity of the home system ID number storage of Schmidt and Rodriguez since a user could more easily change the home system ID number. Therefore, Appellants submit that the combination of Schmidt, Rodriguez, and Irvin does not teach or suggest a “read only memory also for storing one or more authorized geographic areas, wherein each authorized geographic area comprises absolute or relative position information” since (1) the home system ID numbers of Schmidt and Rodriguez are not geographic areas comprising absolute or relative position information, and (2) the user-programmable “safe zones” of Irvin are not properly combinable with the PROM of Schmidt and Rodriguez.

In light of the foregoing, Appellants respectfully request reversal of the rejection of claims 46 and 63.

**SCHMIDT IN VIEW OF RODRIGUEZ AND IRVIN FAILS TO TEACH OR SUGGEST DETERMINING WHETHER THE INPUTTED PHONE NUMBER WILL INCUR A CHARGE BASED ON AN EVALUATION OF AT LEAST THE AREA CODE, THE CURRENT LOCATION, AND THE LIST COMPRISING AREA CODES AND THE ONE OR MORE AUTHORIZED GEOGRAPHIC AREAS STORED IN THE READ ONLY MEMORY**

In response to Appellants’ argument regarding claim 46 that the cited portions of Schmidt, Rodriguez, and Irvin do not teach or suggest determining “whether an inputted phone number will incur a charge based on an evaluation of the one or more authorized geographic areas stored in the read only memory,” the Examiner references several portions of the cited references in an attempt to show “determining whether an inputted phone number will incur a charge.” (See Examiner’s Answer, pages 40-43).

In response, Appellants submit that the Examiner does not appear to be giving any patentable weight to the phrase “based on an evaluation of the one or more authorized geographic areas stored in the read only memory,” as clearly recited in Appellants’ claim 46. In this regard, Appellants submit that in light of the absence of a teaching or suggestion of a “read only memory for storing one or more authorized geographic areas, wherein each authorized geographic area comprises absolute or relative position information” by the cited references, necessarily, the cited portions of the cited references must also fail to teach or suggest determining “whether an inputted phone number will incur a charge based on an evaluation of the one or more authorized geographic areas stored in the read only memory,” as recited in Appellants’ claim 46. Appellants submit that the recited determination (e.g., whether a charge will be incurred) cannot be taught or suggested by the cited portions of the cited references since the determination is based on something that is wholly absent from the cited portions of the cited references (e.g., authorized geographic areas stored in the read only memory).

In light of the foregoing, Appellants respectfully request reversal of the rejection of claim 46.

**SCHMIDT IN VIEW OF RODRIGUEZ AND AGNESS FAILS TO TEACH OR SUGGEST A READ ONLY MEMORY FOR STORING ONE OR MORE AUTHORIZED GEOGRAPHIC AREAS, WHEREIN EACH AUTHORIZED GEOGRAPHIC AREA COMPRISES ABSOLUTE OR RELATIVE POSITION INFORMATION**

In response to Appellants’ argument regarding claims 46 and 63 that the cited portions of Schmidt, Rodriguez, and Agness do not teach or suggest “a read only memory for storing one or more authorized geographic areas, where each authorized geographic area comprises absolute or relative position information,” the Examiner applies the same reasoning regarding Schmidt and Rodriguez, as described above. In addition, the Examiner cites various portions of Agness to show a GPS circuit used to determine the location of a cellular telephone. (See Examiner’s Answer, pages 46-48).

In response, Appellants reiterate that the home system ID numbers of Schmidt and Rodriguez do not teach or suggest authorized geographic areas comprising

absolute or relative position information since the home system ID numbers do not contain any position information. Moreover, only a cursory review of the cited portions of Agness is required to see that the cellular telephone described by Agness does not have a ROM to store authorized geographic areas comprising absolute or relative position information. Instead, Agness (Abstract; col. 7, lines 34-35 and 47-55; col. 8, lines 14-18 and 39-51) clearly describes that various call restrictions are stored in databases within a cell base station communications server. In operation, the cellular telephone of Agness transmits a GPS location to the communications server, which then compares the GPS location to the databases containing the call restrictions to determine if the call should be inhibited. Thus, since the databases containing the call restrictions are stored in a cell base station communications server of Agness, Appellants submit that the cited portions of Agness, taken alone or in combination with the cited portions of Schmidt and Rodriguez, do not teach or suggest a wireless communication device comprising "a read only memory for storing one or more authorized geographic areas, where each authorized geographic area comprises absolute or relative position information," as recited in Appellants' claims 46 and 63.

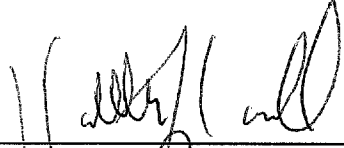
In light of the foregoing, Appellants respectfully request reversal of the rejection of claims 46 and 63.

**Conclusion**

Appellants respectfully submit that the pending claims are allowable and that the rejections should be reversed.

Respectfully Submitted,

Dated: 11/22/2010

  
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